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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/054,164	01/22/2002	Kevin J. Knight	24544.01	6168

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R. Lewis Gable
Cowan, Liebowitz & Latman, P.C.
1133 Avenue of the Americas
New York, NY 10036-6799

EXAMINER

COULTER, KENNETH R

ART UNIT	PAPER NUMBER
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2141

DATE MAILED: 09/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/054,164

Applicant(s)

KNIGHT, KEVIN J.

Examiner

Kenneth R Coulter

Art Unit

2141

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 65-99 and 182-333 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 65-99 and 182-333 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 January 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 65 – 99 and 182 – 333 are rejected under 35 U.S.C. 102(e) as being disclosed by Bornstein (U.S. Pat. No. 6,144,388) (Process For Displaying Articles of Clothing on an Image of a Person).

2.1 Regarding claim 65, Bornstein discloses a method for generating a composite image including:

presenting a first image via a Web interface presented on a browser (Fig. 4; col. 16, line 55 – col. 17, line 25);

presenting a second image via a Web interface presented on the browser (Fig. 4; col. 16, line 55 – col. 17, line 25);

communicating a selecting of the first image and the second image to a server via a network (Fig. 4; col. 16, line 55 – col. 17, line 25);

automatically generating a composite image of the first image and the second image at the server (Figs. 4 and 6B; col. 16, line 55 – col. 17, line 25); and
communicating the composite image from the server to the browser via the network (Fig. 4; col. 16, line 55 – col. 17, line 25).

2.2 Per claim 66, Bornstein teaches that the first image is a product image (col. 16, line 61 – col. 17, line 5).

2.3 Regarding claim 67, Bornstein discloses that the second image is a decorative image including any one of a group of images including logo image and a text image (col. 14, line 39 “text objects”).

2.4 Per claim 68, Bornstein teaches that the composite image includes the second image placed in a default position on the first image (Fig. 10A; col. 26, lines 3 - 10).

2.5 Regarding claim 69, Bornstein discloses:

positioning the second image relative to the first image via a Web interface presented on the browser to generate relative positioning information (col. 19, lines 46 - 58);

communicating the relative positioning information to the server via the network (col. 19, lines 46 - 58); and

automatically generating the composite image of the first image and the second image at the server according to the relative positioning information (col. 19, lines 46 - 58).

2.6 Per claim 70, Bornstein teaches that the composite image is associated with information in a database, the associated information in the database being communicated together with the composite image from the server to the browser via the network as a photo sample (Figs. 1, 4; col. 1, lines 19 – 20; col. 17, lines 27 – 32 and 55 - 59).

2.7 Regarding claims 71 and 72, Bornstein does not explicitly disclose that the photo sample is sent via network to a specified email address; or teach a URL, containing the photo sample that is sent via network to a specified email address.

It would have been inherent to implement the sending of photo information via email because Bornstein clearly discloses an Internet based system (Fig. 4) for downloading and uploading information through a browser. Email attachments are notoriously well known avenues for delivery of photo information over the Internet.

2.8 Regarding claims 73 – 99 and 182 – 333, the rejection of claims 65 – 72 under 35 USC 102(e) (paragraphs 2.1 – 2.7 above) applies fully.

In addition Bornstein discloses normalizing dimensions of images (col. 19, lines 46 - 58).

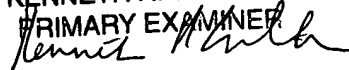
Also, Bornstein teaches two separate memory storage areas (libraries) for storage of the superimposed data (Fig. 4, items 114 and 116; col. 16, lines 55 – 64 “models database”; col. 17, lines 19 – 39 “user’s picture database”).

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kenneth R Coulter whose telephone number is 703 305-8447. The examiner can normally be reached on 5 4 9.

If attempts to reach the examiner by telephone are unsuccessful, the examiner’s supervisor, Rupal Dharia can be reached on 703 305-4003. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

KENNETH R. COULTER
PRIMARY EXAMINER



krc